

E1-18551



**FW: Michigan Air-Line Railway Petition for Exemption before the Surface Transportation Board**

**Bob Alderson** to: Dave Navecky

04/29/2011 05:11 PM

Mr. Navecky:

I would respectfully request that you review the attached series of emails regarding the 4th condition imposed on Michigan Air-Line Railway Co. in the Environmental Assessment issued by the OEA in STB Docket No. AB-1053 (Sub-No 1X). After your review of these emails, I trust you will concur with the conclusion of my co-counsel in this docket, Dirk Beckwith, that the 4th condition has been satisfied. Thank you for your consideration.

Bob Alderson  
Attorney for Michigan Air-Line Railway Co.

From: Beckwith, Dirk [mailto:DBeckwith@fosterswift.com]  
Sent: Friday, April 29, 2011 9:17 AM  
To: Bob Alderson; Bob Butler; Marty Ramsey  
Subject: FW: Michigan Air-Line Railway Petition for Exemption before the Surface Transportation Board

I believe this email will satisfy the fourth condition imposed by the STB. Let me know if I can be of any further assistance. Regards,

Dirk H. Beckwith  
Attorney  
Foster Swift Collins & Smith PC  
32300 Northwestern Hwy., Suite 230  
Farmington Hills, MI 48334  
Phone: 248.539.9918  
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**FOSTER SWIFT**  
ATTORNEYS AT LAW

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From: Hartz, Andrew (DNRE) [mailto:HARTZA@michigan.gov]  
Sent: Friday, April 29, 2011 10:08 AM  
To: Beckwith, Dirk  
Cc: Foosse, Melanie (DNRE); Durack, Patrick (DNRE)  
Subject: RE: Michigan Air-Line Railway Petition for Exemption before the Surface Transportation Board

Mr. Beckwith,  
Thank you for your phone call today. We have not reviewed the report sent. During this mornings phone conversation you relayed to me that the rail line abandonment/removal would occur on the existing railroad grade. Haul roads through wetlands, temporary bridges across streams and the like are not required to be installed as a part of this project.

Aspects of this project that may require permits under the States Wetland, Inland Lakes and Streams and Floodplain regulatory programs include culvert cleanout replacement, bridge installation, haul road construction through wetlands and/or floodplain areas and the placing of fill in wetland, lakes, or floodplains for equipment and rail line staging areas. You have reported to me that none of this type of activity will occur.

Based on the above a permit is not required under the aforementioned regulatory programs. Please contact me if any of the above type work is necessary at any point during the project. ..Andy

Andrew J. Hartz  
District Supervisor  
Water Resource Unit  
Water Resources Division  
Michigan Department of Environmental Quality (DEQ)  
27700 Donald Court  
Warren MI 48092-2793  
586-753-3867-Direct line  
Hartza@Michigan.gov

From: Beckwith, Dirk [mailto:DBeckwith@fosterswift.com]  
Sent: Tuesday, April 19, 2011 2:50 PM  
To: Hartz, Andrew (DNRE)  
Subject: Michigan Air-Line Railway Petition for Exemption before the Surface Transportation Board

Hello Mr. Hartz. My name is Dirk Beckwith and I am local counsel for the Michigan Air-Line Railway ("MAL"). On or about January 28, 2011, MAL filed with the Surface Transportation Board ("STB") a Petition for Exemption relating to approximately 5.45 miles of rail line located in Commerce, Wixom and Walled Lake. The Petition is currently pending before the STB.

Prior to filing the Petition with the STB, on or about January 5, 2011, my co-counsel Bob Alderson, mailed to you, and others, a copy of a Combined Environmental and Historic Report. On March 29, 2011, the STB issued an Environmental Assessment. In the Assessment, the STB, among other things, recommended four conditions (only one of which might pertain to you) be imposed on any decision granting abandonment authority. The one condition that might pertain to you is as follows: "3. MAL Railway shall consult with the Michigan Department of Natural Resources and Environment (MDNRE) prior to beginning salvage activities regarding permitting requirements under Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and, if applicable, shall comply with the reasonable requirements of the MDNRE."

Prior to the issuance of the STB's Environmental Assessment I was proceeding under the understanding that no permitting requirements would be required and there would be no additional requirements of the MDNRE since we had not heard back from you, or the others, after the Combined Environmental and Historic Report was mailed in early January of this year. Would you please contact me upon receipt of this email to advise me whether you are aware of any permitting or other requirements of the MDNRE. I look forward to hearing from you at your earliest convenience. Regards,

Dirk H. Beckwith  
Attorney

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